

810-8-1-.25.02 Permit Issued to Pay Lubricating Oil Tax Directly to the Department of Revenue.

~~(1) Whereas, Section 40-17-220, Code of Alabama 1975, levies an additional \$.04 per gallon tax on lubricating oil and expressly exempts from this additional levy certain designated users of lubricating oil, and~~

~~Whereas, it is impossible in many instances to determine at the time of sale/purchase of such lubricating oil the applicable rate of tax, and~~

~~Whereas, it being the opinion of the Commissioner of Revenue that certain clarifying, reasonable rules and regulations need to be adopted, and~~

~~Whereas, The Commissioner of Revenue is empowered by Section 40-2-11, Code of Alabama 1975, to supervise and control the administration of the various tax laws of the State of Alabama.~~

~~IT IS THEREFORE ORDERED that the following be adopted.~~

(21) Any person, distributor, storer, retail dealer, user, or user who sells to others, unable to ~~ascertain~~ determine at the time of purchase, transport, delivery, storage, or sale of lubricating oil the applicability of the additional ~~\$.04 per gallon tax excise tax levied in Section 40-17-220~~ may apply for a permit. This permit will allow the holder to purchase lubricating oil free of all lubricating tax and pay such taxes directly to the Department of Revenue.

(32) Application for a lubricating oil permit will be made upon forms prepared by the Department. Upon receipt and approval of the application by the Department, a lubricating oil numbered permit will be issued to the applicant. ~~with a supply of monthly lubricating tax returns.~~

(4-3) The lubricating permit holder shall purchase all lubricating products tax free and is not required to remit to the seller the ~~\$.02 per gallon excise~~ tax levied in Section 40-17-171 or the additional ~~\$.04 per gallon excise~~ tax levied in Section 40-17-220.

The Ppermit holder must furnish to each vendor from whom lubricating oil is purchased the assigned permit number.

(54) The lubricating permit holder is required to file a lubricating tax return for each month on a form prescribed by the Department. A return must be filed with the Department even though no lubricating oil is purchased, distributed, sold, used, or tax is due. The return is due on or before the twentieth (20th) day of each calendar month being a true and correct statement of the information required on the return for the next preceding calendar month.

(65) The monthly lubricating tax return shall be prepared in duplicate. The original accompanied by a remittance payable to "State of Alabama" for the amount of tax shown to be due shall be filed with the Department and the duplicate shall be retained by the permit holder.

Failure to receive a return form does not relieve the permit holder from the obligation of making a return on or before the due date.

(~~76~~) As respects the lubricating permit holder's tax reporting, the tax is deemed to have been collected at the time of the sale irrespective of when payment for the amount of the invoice including the tax is received by the permit holder. Failure to collect the tax from the purchaser does not relieve the permit holder from this liability to pay the Department the amount of the tax to be collected.

(~~87~~) The lubricating permit holder must keep records to substantiate any item appearing on the monthly lubricating tax return. Records must be maintained in a form satisfactory to the Department and shall be made available for inspection or audit by the Department. Records must be retained by the permit holder for a period not less than three years.

(~~98~~) The lubricating permit holder conducting business at different locations requires only one permit, if monthly lubricating tax returns are prepared at one central location.

(~~109~~) A lubricating permit holder claiming sales or use of lubricating oil exempt from the additional ~~\$.04 per gallon excise tax~~ as enumerated in Section 40-17-220(~~dc~~), (~~31~~) through (~~68~~) must exercise reasonable care to assure that lubricating oil will be so used. Each exempt sale of lubricating oil must be supported by a copy of the original invoice showing invoice number, date, number of gallons, and the correct name and address of the purchaser. A user of lubricating oil must keep records substantiating the exempt use.

(~~1110~~) The lubricating permit is a personal privilege and is not transferable. The permit may be cancelled by the Department upon notice by registered mail to the holder thereof.

(~~1211~~) Vendors of lubricating oil must maintain a file of permit holders names and numbers to substantiate tax free sales of lubricating oil to permit holders. Vendors selling tax free lubricating oil to non-permit holders could incur liability for the tax due.

(~~1312~~) Violations of these regulations carry the same penalties as are prescribed for violations of the law itself.

Author: Bonita Calhoun  
Authority: Sections 40-2A-7(a)(5), 40-17-171, and 40-17-220, Code of Alabama 1975  
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